

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:00CR9

UNITED STATES OF AMERICA)
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)
VS.) **O R D E R**
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HERBERT KENT HARBISON)
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THIS MATTER is before the Court on the Defendant's motion for reconsideration of the Court's prior Order of January 25, 2005, denying credit for time spent in prior custody. The motion is denied.

The Defendant's sentence was imposed after a § 5K1.1 motion was granted; therefore, his claim is erroneous. In addition, the relief Defendant seeks in the instant motion must be brought in the form of a motion pursuant to 28 U.S.C. § 2255.

IT IS, THEREFORE, ORDERED that the Defendant's motion for reconsideration is hereby **DENIED**.

Signed: May 23, 2005



Lacy H. Thornburg
United States District Judge

